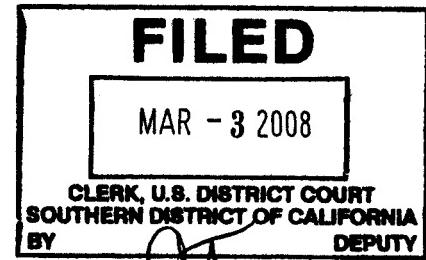


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 07CR3270-W

Plaintiff,
v.
MIGUEL CEDENO-MARTINEZ (1),
Defendant.

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Christina M. McCall, Assistant United States Attorney, and defendant MIGUEL CEDENO-MARTINEZ, by and through and with the advice and consent of defense counsel, Robert Rexrode, Esq., that:

1. Defendant agrees to execute this stipulation on or before the change-of-plea hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to count 4 of the Indictment charging defendant with a non-mandatory minimum count of Transporting Illegal Aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and 18 U.S.C. § 2.

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 2 provide the signed, original plea agreement to the Government prior to the disposition date set by
 3 the Court.

4 3. The material witnesses, Juan Antonio Garcia-Jimenez, Jose Salvador Esparza-
 5 Casteneda, and Angelica Valdez-Legaria, in this case:

6 a. Are aliens with no lawful right to enter or remain in the United States;
 7 b. Entered or attempted to enter the United States illegally on or about
 8 November 13, 2007;

9 c. Were guided across the border on foot by co-defendant Jonathan Astorga-
 10 Madrigal through the southbound lanes of Interstate 5 and followed Astorga-Madrigal and entered
 11 or attempted to enter a vehicle driven by Defendant, with the intent to further their entrance into the
 12 United States;

13 d. Were each paying, or having others pay on their behalf, \$2,500 to defendant
 14 or others to be brought into the United States illegally and/or transported illegally to their destination
 15 therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
 17 Security for return to their country of origin.

18 4. After the material witnesses are ordered released by the Court pursuant to this
 19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
 20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
 21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth above shall be admitted as substantive evidence;
 23 b. The United States may elicit hearsay testimony from arresting agents
 24 regarding any statements made by the material witness(es) provided in discovery, and such testimony
 25 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
 26 of (an) unavailable witness(es); and,

27 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),

28 Stipulation of Fact and Joint Motion for Release of
 Material Witness(es) And Order Thereon in
 United States v. Miguel Cedeno-Martinez and Jonathan Astorga-Madrigal

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1 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
2 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
3 waives the right to confront and cross-examine the material witness(es) in this case.

4 5. By signing this stipulation and joint motion, defendant certifies that defendant has
5 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
6 further that defendant has discussed the terms of this stipulation and joint motion with defense
7 counsel and fully understands its meaning and effect.

8 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
9 immediate release and remand of the above-named material witness(es) to the Department of
10 Homeland Security for return to their country of origin.

11 It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

15 Dated: 2-29-09

Christina M. McCall
CHRISTINA M. McCALL
Assistant United States Attorney

17 Dated: 2/24/08
18

ROBERT REXRODE
Defense Counsel for Miguel Cedeno-Martinez

20 Dated: 2/24/2008

MIGUEL CEDENO-MARTINEZ
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 3/3/68

United States Magistrate Judge
DISTRICT